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Pesachim Daf 88

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Daf Notes is currently being dedicated to the neshamah of

**Tzvi Gershon Ben Yoel (Harvey Felsen) o”h**

May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

Rabbi Elozar also said: What is meant by the verse, And many people shall go and say: ‘Come, and let us go up to the mountain of Hashem, To the house of the God of Yaakov’, the God of Yaakov, but not the God of Avraham and Yitzchak? But [the meaning is this: we will] not [be] like Avraham, in connection with whom ‘mountain’ is written, as it is said: As it is said to this day, ‘In the mountain where Hashem is seen.’ Nor like Yitzchak, in connection with whom ‘field’ is written, as it is said: ‘And Yitzchak went out to pray in the field.’ But [let us be] like Yaakov, who called Him ‘house’, as it is said: ‘And he called the name of that place “the house of God.”’

Rabbi Yochanan said: The reunion of the Exiles is as important as the day when heaven and earth were created, for it is said: And the children of Judah and the children of Israel shall be gathered together, and they shall appoint themselves one head, and shall go up out of the land; for great shall be the day of reunion; and it is written: And there was evening and there was morning, one day. (88a1)

An orphan on whose behalf his guardians slaughtered etc. You may infer from this that there is bereirah – retroactive determination.<sup>1</sup> — Said Rabbi Zeira: [No:] a lamb according to their father's houses [implies] in all cases.<sup>2</sup>

Our Rabbis taught: A lamb for a household: this teaches that a man can bring [a lamb] and slaughter [it] on behalf of his son and daughter, if minors, and on behalf of his Canaanite

[non-Jewish] slave and slave woman, whether with their consent or without their consent. But he cannot slaughter [it] on behalf of his son and daughter, if adults, or on behalf of his Hebrew servants and maidservants, or on behalf of his wife, save with their consent.

Another [Baraisa] taught: A man must not slaughter [the pesach-offering] on behalf of an adult, his son and daughter, and on behalf of his Hebrew servant and maidservant, and on behalf of his wife, save with their consent. But he may slaughter [it] on behalf of his son and daughter, if minors, and on behalf of his Canaanite slave and slavewoman, whether with their consent or without their consent. And all of these, if they [themselves] slaughtered and their master [also] slaughtered on their behalf, can discharge [their duty] with their master's, but they cannot discharge [their duty] with their own, except a woman, because she is able to protest.<sup>3</sup> How is a woman different?<sup>4</sup> — Said Rava, [It means] a woman and those who are like her.<sup>5</sup>

This is self-contradictory. You say, ‘Except a woman, because she is able to protest.’ [Thus] the reason is because she protested, but if she did not protest, she cannot discharge [her duty] with her husband's. Yet surely the first clause teaches: ‘Nor on behalf of his wife [etc.] save with their consent’: hence if nothing is said, she cannot discharge [her obligation thus]? — What does ‘save with their consent’ mean? Not that they said ‘yes,’ but when they said nothing,

whichever he desires and there is no question of retroactive determination.

<sup>3</sup> A married woman can renounce her right to her husband's support and refuse to work for him as she is normally obliged to do.

<sup>4</sup> I.e., an adult son and daughter and Hebrew servants can also protest!

<sup>5</sup> I.e., his adult son and daughter and his Hebrew servants.

<sup>1</sup> Bereirah is a technical term denoting that a choice or selection made now has retroactive validity in a legal sense. Actually there is a controversy in this matter.

<sup>2</sup> I.e., the head of the house does not require the consent of the members of the household. For that reason the orphan may now eat

which excludes [the case] where they said 'no.' But surely 'and all of these, if they [themselves] killed and their master slaughtered on their behalf, can discharge [their duty] with their master's, but they cannot discharge [their duty] with their own meal's where nothing is said, yet it teaches, 'except a woman, because she can protest'? — Said Rava: Since they [themselves] slaughtered, you can have no greater protest than this. (88a1 – 88a3)

A slave belonging to two partners etc. Rav Eina the Elder pointed out a contradiction to Rav Nachman: We learned: A slave belonging to two partners may not eat of either; yet it was taught: If he wishes, he can eat of this one's [and] if he wishes, he can eat of that one's? Said he to him, Eina the Elder! others say, You black pot!<sup>6</sup> Between you and me the law will be clearly defined:<sup>7</sup> our Mishnah [holds good] where they are particular with each other;<sup>8</sup> the Baraisa [was taught] when they are not particular with each other. (88a3)

He who is half slave and half free must not eat of his master's. It is only of his master's that he must not eat, yet he may eat of his own? But it was taught: He may not eat, either of his own or of his master's! — There is no difficulty: one is according to the earlier Mishnah, while the other is according to the later Mishnah. For we learned: He who is half slave and half free works one day for his master and one day for himself; these are the words of Beis Hillel. Beis Shammai say: You have [thus] safeguarded his master<sup>9</sup> but you have not safeguarded him! He is unable to marry a [Canaanite] slavewoman, because he is already half free; he is unable to

marry a free woman, because he is still half slave. Shall he remain idle? — but surely the world was not created for nothing but procreation as it is said: He created it not a waste, He formed it to be inhabited. Hence in the public interest we compel his master, and he makes him a free man, and he [the slave] must write a bond for half his value.<sup>10</sup> Then Beis Hillel reverted to rule as Beis Shammai.<sup>11</sup> (88a3 – 88b1)

MISHNAH: If a man says to his slave, 'go forth and slaughter the passover-offering on my behalf': if he slaughtered a kid, he eats [of it]. If he slaughtered a lamb, he eats [of it]. If he slaughtered a kid and a lamb, he must eat of the first.<sup>12</sup> If he forgot what his master told him, how shall he act? He slaughters a lamb and a kid and declares, 'If my master told me [to slaughter] a kid, the kid is his [for his passover-offering] and the lamb is mine; while if my master told me [to slaughter] a lamb, the lamb is his and the kid is mine. If his master [also] forgot what he told him, both go forth to the place of burning,<sup>13</sup> yet they are exempt from sacrificing the second pesach-offering.<sup>14</sup> (88b1)

GEMARA: It is obvious that if he slaughtered a kid, he [the master] may eat [of it] even though he is accustomed to lamb;<sup>15</sup> if he slaughtered a lamb, he may eat [of it] even though he is accustomed to a kid. But how is it stated: If he slaughtered a kid and a lamb, he must eat of the first; surely it was taught, One cannot register for two pesach-offerings simultaneously?<sup>16</sup> — Our Mishnah refers to a king and a queen.<sup>17</sup> And it was taught even so: One may not register for two pesach-offerings simultaneously. Yet it once happened

<sup>6</sup> Rashi in Avodah Zarah 16b explains that he was either begrimed through toil or that in his preoccupation with his studies he had neglected the appearance of his garments.

<sup>7</sup> As a result of your question and my answer the exact conditions of the law will emerge.

<sup>8</sup> Not to benefit from one another; hence the half of the slave which belongs to one, as it were, may not eat of the other's offering.

<sup>9</sup> Lit., 'repaired his master, — so that he should not suffer loss.

<sup>10</sup> Which becomes an ordinary debt to his former master.

<sup>11</sup> After having ruled in actual practice on their own view for some time, they adopted Beis Shammai's ruling. Now the law is always as Beis Hillel. Before they retracted, he could not eat of his own, because the half in him that is free is sharply differentiated from the half that is not. But when they retracted they would regard him as entirely free, even

before he is actually so, since we compel his master to free him; hence he could eat of his own.

<sup>12</sup> While the second is burnt.

<sup>13</sup> Because they do not know which belongs to whom, and a pesach-offering may be eaten only by those registered for it.

<sup>14</sup> For both the slaughtering and the sprinkling of the blood were valid acts.

<sup>15</sup> And that is really what the Mishnah informs us.

<sup>16</sup> To eat subsequently whichever one chooses, because selection is not retroactive; thus the same applies here.

<sup>17</sup> Being accustomed to luxury they do not care what they eat, and generally leave it to their servants. Hence the question of retroactive determination does not arise.

that the king and queen instructed their servants, 'Go forth and slaughter the pesach-offering on our behalf,' but they went and slaughtered two pesach-offerings for them. [Then] they went and asked the king [which he desired and] he answered then, 'Go and ask the queen.' [When] they went and asked the queen she said to them, 'Go and ask Rabban Gamliel.' They went and asked Rabban Gamliel who said to them: The king and queen, who have no particular desires, must eat of the first; but we [in a similar case] might not eat either of the first or of the second. On another occasion a lizard was found in the palace kitchen and they wished to declare the entire meal tamei. They went and asked the king, who answered them, 'Go and ask the queen.' When they went to ask the queen she said to them, 'Go and ask Rabban Gamliel.' [So] they went and asked him. Said he to them, 'Was it [the lizard] in the kitchen [found in a] hot or cold [dish]?' 'It was hot,' replied they. 'Then go and pour a glass of cold water over it,' he told them. They went and poured a glass of cold water over it, and it moved,<sup>18</sup> whereupon Rabban Gamliel declared the entire meal tahor. Thus the king was dependent on the queen and the queen was dependent on Rabban Gamliel; hence the whole meal was dependent on Rabban Gamliel. (88b1 – 88b2)

If he forgot what his master had told him etc. Mine? Whatever a slave owns his master owns!<sup>19</sup> — Said Abaye: He refers to a shepherd with whom his master generally has dealings, who is therefore pleased to make things right for his master, and he gives him possession of one of them on condition that his master shall have no rights in it. (88b2 – 88b3)

<sup>18</sup> They now saw that it was alive.

<sup>19</sup> How then can the slave stipulate that one of these should be his?

<sup>20</sup> This is a blemish which disqualifies an animal as a sacrifice.

<sup>21</sup> I.e., the pesach-offerings.

<sup>22</sup> For in the Mishnah the sacrifices themselves are both definitely fit, but that we do not know who registered for them, and yet if the doubt arose before the sprinkling they are bound to observe the Second Pesach. How much the more then in the Baraisa, where the fitness of the sacrifices themselves is in question!

<sup>23</sup> Hence even if the doubt arose before the sprinkling, they are exempt from observing the Second Passover.

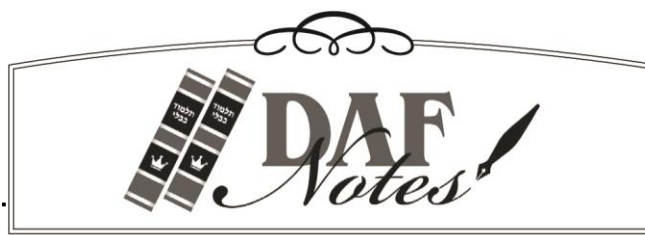
If his master forgot what he had told him etc. Abaye said: They learned this only where he forgot after the sprinkling, so that when the blood was sprinkled it was fit for eating. But if he [the master] forgot before the sprinkling, so that when the blood was sprinkled it was not fit for eating, they are bound to observe the Second Pesach. Others recite this in reference to the [following] Baraisa: If the hides of five [companies'] pesach-offerings became mixed up with each other, and a wart<sup>20</sup> was found on one of them, they all<sup>21</sup> go out to the place of burning, and they [their owners] are exempt for observing the Second Pesach. Said Abaye: This was taught only where they were mixed up after the sprinkling, so that at least when the blood was sprinkled it was fit for eating; but if they were mixed up before the sprinkling, they are bound to observe the Second Pesach. He who recites [this] in reference to our Mishnah, [holds that] all the more [does it apply] to the Baraisa,<sup>22</sup> But he who recites it in reference to the Baraisa [holds] that [it does] not [apply] to our Mishnah: since [the sacrifices themselves] are valid, for if he reminds himself [of what the Master had told him], it would be fit for eating, it is [indeed] revealed<sup>23</sup> before Heaven. (88b3)

The Master said: 'And [their owners] are exempt from observing the Second Pesach.' But one has [definitely] not discharged [his duty]?<sup>24</sup> — [The reason is] because it is impossible [to do otherwise]. What should be done? Should each bring a [second] pesach-offering, — then they bring chullin to the Temple Court, since four of them have [already] sacrificed.<sup>25</sup> If all of them bring one pesach-offering, the result is that the pesach-offering is eaten by those who have not registered for it.<sup>26</sup> How so? Let each of them bring his

<sup>24</sup> Sc. the one whose offering was blemished.

<sup>25</sup> A pesach-offering can only be brought when there is an actual obligation, and if a man not under this obligation consecrates an animal as such, the consecration is invalid and the animal remains chullin, which may not be brought into the Temple Court for slaughtering. Here four have actually discharged their duty already, though we do not know who they are, so that four of the animals must remain unconsecrated.

<sup>26</sup> Because the registration of those whose duty has been done is of no account.



pesach-offering and stipulate and declare: 'If mine was blemished, let this one which I am bringing now be a pesach-offering; while if mine was unblemished, let this one which I am bringing now be a shelamim-offering'? — That is impossible, because there is the breast and the shoulder [of the shelamim-offering], which is eaten by Kohanim [only].<sup>27</sup> Then let each one register a Kohen with him? — What is the position of this Kohen? If he has [already] sacrificed a pesach-offering, then perhaps this [too] is a pesach-offering, with the result that the pesach-offering is eaten by those who have not registered for it. While if he has not observed the pesach-offering<sup>28</sup> perhaps this is a shelamim-offering, and so he will not observe the pesach-offering at all? (88b3 – 89a1)

#### INSIGHTS TO THE DAF

The *braisa* states: If someone is half slave and half free-man (*he was jointly owned by two men, and one of them set him free*), he serves his master for one day and then is free for one day (*and so on*). Beis Shammai says: You have fixed the problem for his master, but you have not solved his own problem. He cannot marry a Canaanite slavewoman (*as his free side is a freeman, who is forbidden to marry a slavewoman*) and he cannot marry a regular Jewish girl (*who cannot be with his slave half*)! Should he simply not marry? The world was created to be populated, as the verse says: *The world was not created by G-d to be empty; it was created to be populated!* Rather, we force his master to free his other half as well, and we have the slave write for the master a document stating that he owes the master the rest of his value. Beis Hillel retracted their opinion, and agreed with Beis Shammai.

The Sfas Emes discusses the verdict regarding a half-slave and half free person that he must go free, and the slave writes a document to the remaining partner for half of his value. This is because the slave has no money. Essentially, by the first partner's freeing his half, the second partner lost his slave as well, as the law is that he must set him free. Can the

second partner demand that the first partner should take the bond from the slave, while the first partner should pay him the monetary equivalent?

The Sfas Emes concludes that being that the damage is not direct, as it is only a consequence of the first person's action, *Beis Din* will not force the first owner to pay the second owner. [*However, it should be noted that usually indirect damage makes a person liable to pay according to "Heavenly law (meaning what is viewed as right and wrong by Hashem)," despite the fact that Beis Din will not make him pay. Accordingly, if the person freed his half of the slave knowing full well that this would indirectly damage the second owner, he should compensate him to ensure Heaven (Hashem) will not hold it against him.*]

#### DAILY MASHAL

##### **The Watchtowers**

Torah scholars are compared to watchtowers. The advantage of a watchtower is that when a person stands from a high position, he can see danger from afar and alert the people in the city to be on guard. The same is true of the Gedolei Yisrael in every generation. Since they have elevated themselves to such a high level, they can see the dangers that threaten the Jewish people, even before the dangers are apparent to the rest of us. They warn us to avoid harmful practices and ideologies, which we otherwise would not realize are harmful (heard from R' Yisrael Aharon Kopshitz).

<sup>27</sup> And since it may be a pesach-sacrifice and no Kohanim are registered for this, they cannot eat it.

<sup>28</sup> Having been tamei or on a distant journey at the First Pesach.